

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA,  
(Farm Service Agency)

Plaintiff

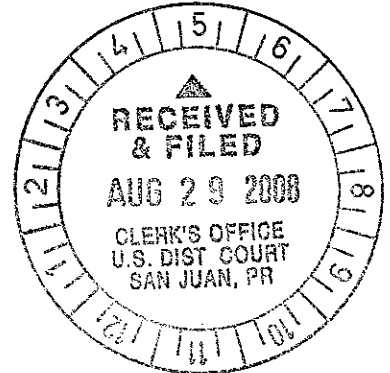
v.

THE ESTATE OF ANTONIO RIVERA ALERS  
composed by his known heirs  
LEIDIANA RIVERA RIVERA, ANTONIO  
RIVERA RIVERA and ELIEZER RIVERA  
ROMAN

Defendants

CIVIL NO. 08-1135(CC)

FORECLOSURE OF MORTGAGE



JUDGMENT BY DEFAULT

Upon plaintiff's motion for judgment, and it appearing from the records on file in this proceeding that default was entered by the Clerk of this Court upon defendants LEIDIANA RIVERA RIVERA, ANTONIO RIVERA RIVERA and ELIEZER RIVERA ROMAN, for failure to answer or otherwise plead in this case, against which defendants the plaintiff is entitled to a Judgment by Default, and the Court being fully advised in the premises, hereby

ORDERS, ADJUDGES, AND DECREES:

1. On October 25, 1984, original borrowers herein subscribed a Mortgage Note for the principal amount of \$27,500.00 with interest at the rate of 10.75% per annum.

2. Said Mortgage Note was subscribed in favor of or to the order of Farm Service Agency, an agency and instrumentality of the United States of America.

3. For the purpose of securing the payment of the first Mortgage Note in the amount of \$27,500.00 with interest rate at 10.75% per annum, a mortgage was constituted by original borrowers

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Modesto Gonzalez Guivas and Nereida Gonzalez in favor of plaintiff under the terms and conditions stipulated and agreed therein, through Deed Number 258 dated October 25, 1984, before Notary Public Aurelio Arce Moreno. Said mortgage deed duly recorded at the corresponding section of the Property Registry, and made part of this complaint.

Said mortgage rate was reamortized and modified in the amount of \$37,054.40 with an interest at the rate of 10 3/4 constituted by deed number 148 dated May 31, 1988 before Notary Aurelio Arce Moreno, which mortgage are duly recorded at the corresponding section of the Registry of the Property, which mortgage was constituted by defendants in favor of plaintiff and under the terms and conditions stipulated and agreed therein.

On February 28, 1990, Modesto Gonzalez Guivas and Nereida Gonzalez sold the property to Julio Ernesto del Campo Santiago and Neysa Judith Beltran Acevedo, who assumed the first Mortgage Note for the amount of \$39,206.85 with interest at the rate of 5.0% per annum. Said Assumption Agreement was constituted by Deed Number 35 dated February 28, 1990, before Notary Public Leonides Graulau Quiñones.

On September 25, 1997, the defendants assumed the first Mortgage Note for the amount of \$52,900.00 with interest at the rate of 5% per annum. Said Assumption Agreement was constituted by Deed Number 120 dated September 25, 1997, before Notary Public Jose M. Cruz Vargas.

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3. According to the Property Registry, the defendant herein, ANTONIO RIVERA ALERS (deceased), appears as owner of record of the real estate properties subject of this case. Said properties are described as follows:

RUSTICA: Radicada en el Barrio Mirasol del término municipal de Lares, Puerto Rico, con una cabida superficial de veintidos cuerdas (22.00 cdas.), equivalentes a ocho hectáreas, sesenta y cuatro areas y sesenta y ocho centiáreas, en lindes al Norte con Basilio Ramos y Tomas Giovannetti; al Sur la Sucesion Tacorone; al Este con Jose Alvarez, Sucesion Santiago, Tomas Negrón y Francisco Rodriguez y al Oeste con Maria Garcia viuda de Calcerrada.

Plaintiff's mortgage for the amount of \$27,500.00 later reamortized to \$52,900.00 was recorded at page 243, volume 178 of Lares, property number 3652, 15<sup>th</sup> inscription, at the Registry of the Property of Utuado, Puerto Rico.

RUSTICA: Parcela de terreno radicada en el Barrio Mirasol de Lares, Puerto Rico, compuesta de tres cuerdas, o sea, una hectárea, diecisiete áreas, noventa y una centiáreas y mil ochocientos sesenta y ocho diez milésimas de centiáreas, marcada con el número uno; en lindes al Norte con terrenos de Emilio Vilella; al Sur con terrenos de Felix Fuster; al Este con terrenos de Emilio Vilella y al Oeste con parcela número dos.

Enclava una casa de tosca, cemento y maderas con divisiones interiores de tosca y cemento, con un frente de treinta y tres pies por doce pies de fondo construída por la Puerto Rico Reconstruction Administration.

Plaintiff's mortgage for the amount of \$27,500.00 later modified to \$52,900.00 was recorded at page 20, volume 102 of Lares, property number 4374, 8<sup>th</sup> inscription, at the Registry of the Property of Utuado, Puerto Rico.

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4. The defendants herein owners of record of this property have failed to comply with the terms and conditions of the mortgage contract and have refused to pay the stipulated monthly installments, in spite of plaintiff's demands and collection efforts.

5. According to the terms and conditions of the mortgage contract if default is made in the payment of an installment under the note, and said default is not made good prior to the due date of the next installment, the entire principal sum and accrued interest shall at once become due and payable at the option of the holder.

6. The defendants' indebtedness with the plaintiff is:

(1) On the mortgage note in the amount of \$27,500.00 later reamortized to \$52,900.00:

a) \$52,900.00 of aggregate principal;

b) \$19,904.79 of interest accrued as of April 19, 2005, and thereafter until its full and total payment, which interest amount increases at the daily rate of \$7.2466;

c) Plus insurance premium, taxes, advances, late charges, costs, court costs expenses, disbursements and attorney's fees guaranteed under the mortgage obligation.

7. Defendants, as debtors of the amounts prayed for in the complaint, are hereby ORDERED AND ADJUDGED to pay unto the plaintiff the amounts specified and set forth in the preceding paragraph 6.

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8. In default of the payment of the sums herein specified or of any part thereof within the ten (10) days from the date of entry of this judgment, said property shall be sold by the Marshal of this Court at public auction to the highest bidder thereof, without an appraisal or right of redemption for the payment and satisfaction of plaintiff's mortgage within the limits secured thereby.

9. The Marshal of this Court shall make the sale hereinabove mentioned in accordance with 28 U.S.C. Section 2001 and Section 2002 and the applicable provisions of the Commonwealth of Puerto Rico Mortgage Law. The notice of sale shall be published in a newspaper of general circulation once a week during four (4) consecutive weeks. The amount of \$65,851.62 shall serve as the minimum bid for the first public sale. Should the first public sale fail to produce an award or adjudication, two-thirds of the aforementioned amount shall serve as the minimum bid for the second public sale. Should there be no award or adjudication at the second public sale, the basis for the third sale shall be one-half of the amount specified as minimum bid for the first public sale. The Marshal of this Court shall proceed to issue the corresponding notice of sale to be published in a newspaper of general circulation without the need of further orders or writs from this Court. Such sale shall be subject to the confirmation of this Court. Upon confirmation the Marshal shall execute the

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corresponding deed of judicial sale to the purchaser and he shall be entitled to the delivery of the property sold and its physical possession, in accordance with law. Said possession may be obtained through eviction of the occupant of the property without the need of further order of this Court if executed within sixty (60) days from the confirmation of the public sale.

10. Any funds derived from the sale to be made in accordance with the terms of this judgment and such further orders of this Court shall be applied as follows:

a) To the payment of all proper expenses attendant upon said sale;

b) To the payments of that part of the indebtedness owed to the plaintiff in the same order and for the amounts specified, and set forth above;

c) If after making the above payments there shall be surplus, said surplus shall be delivered to the Clerk of this Court, subject to further orders of the Court;

d) In the case the proceeds from the said sale are not sufficient to cover the full amounts owing to the plaintiff, the plaintiff shall be entitled to a deficiency judgment against the defendant and shall have execution therefor.


11. The Property Registrar of the corresponding Property Registry of Puerto Rico shall proceed to the recording of the judicial sale deed in favor of the purchaser, free of any liens

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subsequent to the date of the execution of the foreclosed mortgage.

12. Plaintiff in these proceedings may apply to this Court for such further orders as it may deem advisable to its interest in accordance with the terms of this Judgment and the Clerk shall proceed to issue of course all necessary writs to enforce and execute the same. Fed.R.Civ.P. 77(a).

In San Juan, Puerto Rico, this 29 day of August, 2008.

  
CARMEN CONSUELO CEREZO  
UNITED STATES DISTRICT JUDGE